

104TH CONGRESS
1ST SESSION

H. R. 2280

To improve payment integrity in the medicare and medicaid programs, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 7, 1995

Mr. DINGELL (for himself, Mr. WAXMAN, Mr. BONIOR, Mr. BRYANT of Texas, Ms. DANNER, Mr. KLECZKA, Mrs. LOWEY, and Mr. STUPAK) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on the Budget, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To improve payment integrity in the medicare and medicaid
programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND REFERENCES IN ACT.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Medicare and Medicaid Payment Integrity Act of 1995”.

6 (b) REFERENCES IN ACT.—The amendments in this
7 Act apply to the Social Security Act unless otherwise spe-
8 cifically stated.

1 **SEC. 2. FINDING AND STATEMENT OF PURPOSES.**

2 (a) FINDING.—The Congress finds that the cost of
3 fraud and abuse of health care services is a significant
4 part of every dollar spent on those services.

5 (b) PURPOSES.—It is the purpose of this Act to direct
6 the Secretary of Health and Human Services to move ag-
7 gressively and broadly against these drains on Federal and
8 State health care resources, and to provide a new, cost-
9 effective source of funding for the benefit quality assur-
10 ance program.

11 **SEC. 3. FRAUD AND ABUSE CONTROL FUND.**

12 (a) IN GENERAL.—Part A of title XI is amended by
13 adding at the end the following:

14 “FRAUD AND ABUSE CONTROL FUND

15 “SEC. 1145. (a) The Secretary shall, directly or
16 through contractual or other arrangements and with ap-
17 propriate coordination with the States, take all steps nec-
18 essary to assure the accuracy of payments from the trust
19 funds established under title XVIII (referred to herein as
20 the ‘Medicare Trust Funds’) and the appropriation for
21 payments to States to carry out title XIX (referred to
22 herein as the ‘Medicaid appropriation’) and otherwise as-
23 sure the appropriateness of expenditures from such Funds
24 and such appropriation. To carry out this responsibility,
25 the Secretary shall place particular emphasis on the devel-
26 opment of and experimentation with innovative or rigorous

1 techniques and approaches to identifying, investigating,
2 and eliminating fraudulent or abusive practices that bur-
3 den the Medicare Trust Funds or the Medicaid appropria-
4 tion.

5 “(b) To provide a reliable source of funding to sup-
6 port the Secretary’s activities under subsection (a) and en-
7 courage cost-effective innovation, there is established in
8 the Treasury of the United States a fund to be known
9 as the ‘HHS Fraud and Abuse Control Fund’ (referred
10 to herein as the ‘Fund’).

11 “(c) There shall be deposited in the Fund—

12 “(1) that portion of amounts recovered in rela-
13 tion to section 1128A arising out of a claim under
14 title XIX or title XVIII as remains after application
15 of subsection (f)(1) (pertaining to reimbursement of
16 a State’s share of recoveries relating to title XIX) or
17 subsection (f)(2) (relating to repayment of the Medi-
18 care Trust Funds) of that section, as may be appli-
19 cable,

20 “(2) payments made pursuant to a court or ad-
21 ministrative order or voluntary settlement agreement
22 to reimburse for all or part of the costs of investiga-
23 tions, audits, and monitoring of compliance plans,
24 conducted by the Department of Health and Human

1 Services that relate to the programs under title
2 XVIII or XIX, and

3 “(3) penalties and damages imposed (other
4 than funds awarded to a relator or for restitution)
5 under sections 3729 through 3732 of title 31, Unit-
6 ed States Code (pertaining to false claims) in cases
7 involving claims relating to programs under title
8 XVIII or XIX (to the extent the amounts deposited
9 in the Fund under paragraphs (1) and (2) in a fiscal
10 year are less than \$2,000,000).

11 “(d) Amounts deposited in the Fund shall be avail-
12 able to the Secretary (without the necessity for any provi-
13 sion therefor in appropriations Acts) until expended for
14 payment of expenses incurred in carrying out subsection
15 (a).

16 “(e) No more than \$2,000,000 may be deposited in
17 the Fund in any fiscal year.”.

18 (b) INITIAL DEPOSIT IN HHS FRAUD AND ABUSE
19 CONTROL FUND.—There is authorized to be appropriated
20 for fiscal year 1996 an amount (to be deposited in the
21 HHS Fraud and Abuse Control Fund established by sec-
22 tion 1145(b) of the Social Security Act) for the initial im-
23 plementation of activities under section 1145(a) of that
24 Act (subject to section 1145(e) of that Act).

1 (c) CONFORMING AMENDMENT.—Section 1128A(f)
 2 (42 U.S.C. 1320a–7a(f)) is amended—

3 (1) by renumbering paragraph (3) as paragraph
 4 (4), and

5 (2) by inserting after paragraph (2) the follow-
 6 ing:

7 “(3) Additional amounts (subject to section 1145(e))
 8 shall be deposited in the HHS Fraud and Abuse Control
 9 Fund established by section 1145(b).”.

10 (d) EFFECTIVE DATE.—Sections 1145(c) and
 11 1128A(f)(3) of the Social Security Act (as enacted and
 12 amended by subsections (a) and (c) of this section) apply
 13 to amounts recovered, payments made, and penalties and
 14 damages imposed, after fiscal year 1995.

15 **SEC. 4. MEDICARE BENEFIT QUALITY ASSURANCE PRO-**
 16 **GRAM.**

17 (a) IN GENERAL.—Part C of title XVIII is amended
 18 by inserting after section 1888 the following new section:

19 “BENEFIT QUALITY ASSURANCE PROGRAM

20 “SEC. 1889. (a)(1) In order to improve the effective-
 21 ness of benefit quality assurance activities relating to pro-
 22 grams under this title, and to enhance the Secretary’s ca-
 23 pability to carry out program safeguard functions and re-
 24 lated education activities to avoid the improper expendi-
 25 ture of assets of the Federal Hospital Insurance Trust
 26 Fund and the Federal Supplementary Medical Insurance

1 Trust Fund, the Secretary shall enter into contracts with
2 organizations or other entities having demonstrated capa-
3 bility to carry out one or more of the functions specified
4 in subsection (e). The provisions of sections 1816 and
5 1842 shall be inapplicable to contracts under this section.
6 The requirements of sections 1816 and 1842 relating to
7 activities to be carried out instead through a contract
8 under this section shall be deemed to have been met by
9 such contract.

10 “(2) The Secretary shall determine the number of
11 separate contracts which are necessary to achieve, with the
12 maximum degree of efficiency and cost effectiveness, the
13 objectives of this section. The Secretary may enter into
14 contracts under this section at such time or times as are
15 appropriate so long as not later than the fiscal year begin-
16 ning October 1, 1998, and for each fiscal year thereafter,
17 there are in effect contracts that, considered collectively,
18 provide for benefit quality assurance activities with respect
19 to all payments under this title.

20 “(b) A benefit quality assurance contract required
21 under subsection (a) must provide for one or more benefit
22 quality assurance program activities. Each such contract
23 shall include an agreement by the contractor to cooperate
24 with the Inspector General of the Department of Health
25 and Human Services, and the Attorney General of the

1 United States, and other law enforcement agencies, as ap-
2 propriate, in the investigation and deterrence of fraud and
3 abuse in relation to this title and in other cases arising
4 out of the activities described in subsection (e), and shall
5 contain such other provisions as the Secretary finds nec-
6 essary or appropriate to achieve the purposes of this part.
7 The provisions of section 1153(e)(1) shall apply to con-
8 tracts and contracting authority under this section, except
9 that competitive procedures must be used when entering
10 into new contracts under this section, or at any other time
11 when it is in the best interests of the Government. A con-
12 tract under this section may be renewed from term to term
13 without regard to any provision of law requiring competi-
14 tion if the contractor has met or exceeded the performance
15 requirements established in the current contract.

16 “(c)(1) In carrying out this section, the Secretary
17 may not enter into a contract with an organization or
18 other entity if the Secretary determines that such organi-
19 zation’s or entity’s financial holdings, interests, or rela-
20 tionships would interfere with its ability to perform the
21 functions to be required by the contract in an effective
22 and impartial manner.

23 “(2) The Secretary shall by regulation provide for the
24 limitation of a contractor’s liability for actions taken to
25 carry out a contract under this section, and such regula-

1 tion shall, to the extent the Secretary finds appropriate,
2 employ the same or comparable standards and other sub-
3 stantive and procedural provisions as are contained in sec-
4 tion 1157.

5 “(d) Obligations incurred for benefit quality assur-
6 ance program activities shall be paid from amounts avail-
7 able for expenditure in the Federal Hospital Insurance
8 Trust Fund and the Federal Supplementary Medical In-
9 surance Trust Fund, in such amounts as the Secretary
10 shall deem fair and equitable after taking into consider-
11 ation the expenses attributable to each of the programs
12 under this title, but such obligations shall not exceed, in
13 the aggregate, \$396,000,000 for each of the fiscal years
14 1996, 1997, and 1998, \$408,000,000 for fiscal year 1999,
15 and \$426,000,000 for fiscal year 2000. The Secretary
16 shall make such transfers of moneys between those funds
17 as may be appropriate to settle accounts between them
18 in cases where expenses properly payable from one fund
19 have been paid from the other fund.

20 “(e) For purposes of this section, benefit quality as-
21 surance program activities consist of the following:

22 “(1) Review of activities of providers of services
23 or other persons in connection with this title, includ-
24 ing medical and utilization review and fraud review.

25 “(2) Audit of cost reports.

“(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

“(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to obligations incurred after fiscal year 1995.

SEC. 5. REDUCTION IN DISCRETIONARY SPENDING LIMITS.

Section 601(a)(2)(F) of the Congressional Budget Act of 1974 is amended by inserting before the semicolon the following: “, and reduced by \$398,000,000 in new budget authority and \$366,160,000 in outlays with respect to fiscal year 1996, by \$398,000,000 in new budget authority and \$384,181,000 in outlays with respect to fiscal year 1997, and by \$398,000,000 in new budget authority and \$392,003,000 in outlays with respect to fiscal year 1998”.

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